<center>**REMARKS/ARGUMENTS**</center>

The Office Action has been carefully considered. Claims 7, 20-30, 37, 40, 53, and 55 are canceled. Claims 1-6, 8-19, 31-36, 38-39, 41-52, 54, and 56-61 are pending.

The Office Action rejected Claims 1-61 in the following manner.

1. Claims 1-4, 8-9, 11-19, 31, 34-36, 41-42, 44-52, 54, 56-57, 59, and 61 were rejected under 35 U.S.C. § 103(a) as being obvious considering Published U.S. Patent App. No. 2003/0046238 to Nonaka et al. (*"Nonaka"*) in view of U.S. Patent No. 7,062,500 to Hall et al. (*"Hall"*) and further in view of Published U.S. Patent App. No. 2002/0152393 to Thoma et al. (*"Thoma"*).

2. Claims 5-6 were rejected under 35 U.S.C. § 103(a) as being obvious considering *Nonaka, Hall, Thoma* and further in view of U.S. Patent No. 6,959,384 to Serret-Avila et al. (*"Serret-Avila"*).

3. Claims 10, 32-33, 43, and 58 were rejected under 35 U.S.C. § 103(a) as being obvious considering *Nonaka, Hall, Thoma* and further in view of U.S. Patent No. 7,080,043 to Chase, Jr. et al. (*"Chase"*).

For reasons discussed below, Applicants believe that the rejections in the Office Action are moot in light of the previous amendments.

35 U.S.C. § 103 Rejections

Nonaka in view of Hall and Thoma does not teach or suggest the elements of Claims 1-4, 8-9, 11-19, 31, 34-36, 41-42, 44-52, 54, 56-57, 59, and 61.

Claims 1-4, 8-9, 11-19, 31, 34-36, 41-42, 44-52, 54, 56-57, 59, and 61 were rejected under 35 U.S.C. § 103(a) as being obvious considering *Nonaka* in view of *Hall* and further in view of *Thoma*. Applicants respectfully submit that these references, alone or in combination, do not teach or suggest each and every element of Claims 1-4, 8-9, 11-19, 31, 34-36, 41-42, 44-52, 54, 56-57, 59, and 61 as previously amended. Claim 1 recites as follows (emphasis added):

> A method comprising:
> obtaining clear form rights information at a client device, said clear form rights information being associated with content stored at said client device;
> obtaining a **clear form external integrity hash of first data comprising said clear form rights information and an external key as an integrity secret**;
> obtaining an **internal integrity hash of second data comprising said clear form rights information, said clear form external integrity hash, and an externally inaccessible client device key**;

encrypting said internal integrity hash using said externally inaccessible client device key; and

storing the encrypted internal integrity hash on the client device.

In the Office Action at 3, some confusion was noted as to the subject matter of, e.g., Claim 1: "It is unclear what the Applicant is claiming, the generation of a hash... or the contents of the hash? .... Is this the invention, a precise set of parameters in the integrity hash? And, the clear form representation as an added feature." However, as discussed below, Applicants believe that the scope of subject matter claimed in Claim 1 is clear.

To answer the questions posed by the Examiner, in Claim 1, the subject matter encompasses a method that includes obtaining two hashes, each hash comprising specific contents, one hash remaining in clear form, and the other hash being encrypted using a specific key. In other words, Claim 1 claims features including both obtaining hashes and the contents of two distinct sets of hash parameters.

The "external integrity hash" is claimed to have the following features: it is in "clear form," and its contents comprise "said clear form rights information and an external key as an integrity secret."

The "internal integrity hash" is claimed to have the following features: its contents comprise "said clear form rights information, said clear form external integrity hash, and an externally inaccessible client device key." Claim 1 further specifies that the internal integrity hash is encrypted and stored.

As noted in the Office Action, the general concept of hashing data is well known. However, Claim 1 is not directed to the well known general concept, but to a specific and novel combination of elements as enumerated in the claim language.

In the Office Action at 3, *Hall* is said to disclose the general concept of "usage of clear form rights information plus... using a cryptographic hash." However, Applicants respectfully submit that neither *Hall*, nor any combination of *Nonaka*, *Hall*, and *Thoma*, teaches or suggests obtaining both an external and an internal integrity hash, each of which includes the specific sets of data listed in Claim 1. Accordingly, Applicants respectfully submit that Claim 1 is not obvious considering *Nonaka* in view of *Hall* and further in view of *Thoma*.

In addition, Applicants respectfully submit that *Nonaka* in view of *Hall* and further in view of *Thoma* does not teach or suggest an internal integrity hash comprising in part a external integrity

hash, as claimed in Claim 1. The Office Action states at 4 that *Serret-Avila* discloses a similar element. However, Claim 1 is not rejected in view of *Serret-Avila*. Accordingly, Applicants respectfully submit that the Office Action has not stated a *prima facie* case that Claim 1 is obvious.

For at least the reasons just discussed, Applicants respectfully submit that Claim 1 as presently amended is not obvious considering *Nonaka* in view of *Hall* and further in view of *Thoma*. Applicants also respectfully submit that Claims 2-4, 8-9, 11-19, 31, 34-36, 41-42, 44-52, 54, 56-57, 59, and 61, which include elements similar to those discussed above, are allowable at least by similar reasoning and/or by dependency.

Claims 5-6

Claims 5-6 were rejected under 35 U.S.C. § 103(a) as being obvious considering *Nonaka* in view of *Hall, Thoma,* and further in view of *Serret-Avila*. Applicants respectfully submit that Claims 5-6 are allowable at least by dependency. In addition, Claims 5-6 are also allowable because one of ordinary skill would not have been motivated to make the asserted combination, as discussed below.

Claims 10, 32-33, 43, and 58

Claims 10, 32-33, 43, and 58 were rejected under 35 U.S.C. § 103(a) as being obvious considering *Nonaka* in view of *Hall, Thoma,* and further in view of *Chase*. Applicants respectfully submit that Claims 10, 32-33, 43, and 58 are allowable at least by dependency. In addition, Claims 5-6 are also allowable because one of ordinary skill would not have been motivated to make the asserted combination, as discussed below.

One of ordinary skill would have had no motivation to combine Nonaka, Hall, Thoma, Serret-Avila, and Chase

Under the Supreme Court's most recent ruling on the matter, it remains important to avoid the use of hindsight reasoning when combining references. *See KSR International Co. v. Teleflex Inc.*, 550 U.S. –, 127 S.Ct. 1727, 1742; *see also Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 36, 86 S.Ct. 684 (warning against a "temptation to read into the prior art the teachings of the invention in issue" and instructing courts to "guard against slipping into the use of hindsight"). That temptation is especially great where, as here, the invention consists of a specific combination of specific embodiments of several generally known concepts.

Applicants respectfully submit that the only way to assert that the pending claims are obvious would be to "engage in a hindsight reconstruction of the claimed invention, using the applicant's

structure as a template and selecting elements from references to fill the gaps." *See In re Gorman*, 993 F.2d 982, 18 U.S.P.Q.2d 1885 (1991). Indeed, it is at least conceivable that the prior art may disclose broad teachings generally similar to some of the specific individual elements of the pending claims.

Applicants respectfully submit that only the blueprint provided by Applicants' claims can provide any plausible motivation to pick and choose from among the countless isolated elements from *Nonaka*, *Hall*, *Thoma*, *Serret-Avila*, and *Chase* in the manner asserted in the Office Action. However, it remains strictly forbidden to "use hindsight reconstruction to pick and choose among isolated disclosures in the prior art" to determine that the pending claims are obvious. *See Ecolochem, Inc. v. Southern California Edison Co.*, 227 F.3d 1361, 56 U.S.P.Q.2d 1065 (2000).

For example, consider Claim 1. It strains credulity that it would have been obvious to one of ordinary skill in the art, having no familiarity with Applicants' disclosures, to pick out and combine isolated elements from four unrelated references, namely *Nonaka's* rights information on a content device, *Hall's* clear form descriptive data structures, *Thoma's* device key, and *Serret-Avila's* hierarchy of hash values. Applicants respectfully submit that only with the benefit of hindsight can one look back in time and piece together these disparate references.

The motivations to combine asserted in the Office Action are at best merely generally self-laudatory statements about each reference. For example, the Office Action asserts that one would have been motivated to combine *Nonaka* with *Hall* because *Hall* asserts that its teachings are able "to ensure data structure integrity, flexibility, interoperability in the management of rights information." The Office Action also asserts that one would have been motivated to combine *Nonaka* with *Thoma* because *Thoma* enables "the selection of the terminal device to receive distribute[d] digital content from a wide variety of devices." Further, *Serret-Avila's* assertion that it allows "fast, secure, and efficient authentication of data streams" is said to have motivated one of ordinary skill to combine that reference with *Nonaka*. Granted, all other things being equal, efficiency, flexibility, and interoperability are generally preferred over inefficiency, inflexibility, and lack of interoperability. However, Claim 1's utility (and novelty) lies in other areas. Claim 1 is not particularly directed towards efficient authentication of <u>data streams</u> (as in *Serret-Avila*) or wide interoperability (as in *Thoma*) or flexibility (as in *Hall*). Indeed, at best the asserted general motivations are only tangentially related to potential side effects of the specific embodiment claimed in Claim 1. At worst, some of the asserted general motivations are simply irrelevant (e.g., *Serret-Avila:* Claim 1 is

directed towards using a specific combination of integrity hashes to authenticate <u>rights information,</u> not data streams).

Applicants respectfully submit that nothing in the references or in the art suggests that one of ordinary skill at the time of the invention would have found it obvious to pick and choose all of these isolated individual elements from four merely tangentially related references <u>in order to achieve the specific invention claimed in Claim 1</u>. The remaining claims are also allowable by similar reasoning. Accordingly, Applicants respectfully submit that for this additional reason Claims 1-6, 8-19, 31-36, 38-39, 41-52, 54, and 56-61 are in condition for allowance.

CONCLUSION

For at least the reasons discussed above, Applicants respectfully submit that Claims 1-6, 8-19, 31-36, 38-39, 41-52, 54, and 56-61 are allowable and request that the Examiner permit these claims to proceed to issuance. Although additional arguments are believed to exist for distinguishing the cited documents, including those set out in Applicant's paper filed April 22, 2008, the arguments presented are believed sufficient to address the Examiner's rejections. Likewise, failure of the Applicants to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing arguments, and it is therefore not believed necessary to respond to every position taken by the Examiner with which Applicants do not agree.

The Examiner is respectfully requested to contact the undersigned at the telephone number below if there are any remaining questions regarding this application.

We believe the appropriate fees accompany this transmission. If, however, insufficient fee payment or fee overpayment occurs, the amount may be withdrawn or deposited from/to Axios Law Group's deposit account. The deposit account number is 50-4051.

Respectfully submitted,

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